

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-366-A - ORDER NO. 2002-140

MARCH 1, 2002

IN RE: Application of Chem-Nuclear Systems, LLC for Approval of Allowable Costs.)))))	ORDER GRANTING MOTION FOR EXTENSION TO RESPOND TO LATE FILED EXHIBITS
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This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion filed February 13, 2002, by the South Carolina Budget and Control Board (the Board) to extend the time by which the Board may respond to the late-filed exhibits submitted by Chem-Nuclear Systems, LLC (Chem-Nuclear or Applicant) and the Public Service Commission Staff (Staff) from February 28, 2002, until April 26, 2002, in the Chem-Nuclear Cost Proceeding.

**BUDGET AND CONTROL BOARD'S MOTION FOR AN EXTENSION TO
RESPOND TO THE LATE-FILED EXHIBITS FILED BY CHEM-NUCLEAR
SYSTEMS, LLC AND THE PUBLIC SERVICE COMMISSION STAFF**

The Board argues that additional time is needed to respond due to the voluminosity of Chem-Nuclear's Hearing Exhibits 10 and 11 filed and served February 11, 2002. At the January 9, 2002 hearing, the Public Service Commission ordered the Applicant and the Staff to file certain late-filed exhibits by February 11, 2002, and ordered the statutory parties and intervenors to respond to those exhibits by February 28, 2002. According to the Board's Motion, Exhibit 11 presents reports of at least three groups of previously unidentified, purported experts; specifically, (1) the report of Jim

Harris, Steve Zerangue, and Tonya Newman, with Harris Deville & Associates, related to the valuation of community support; (2) the report of Mark A. Childs and Gregory P. Dowd, Jr., with Project Time & Cost, Inc., as reviewed by Michael C. Ray, with Legis Consultancy, Inc., related to the valuation of preparing a re-licensing document for the Barnwell Low-Level Waste Disposal Facility; and (3) J. Allan Tice and Brian Bellis, with Law Engineering and Environmental Services, Inc., related to the valuation of the cost of creating a ground water flow model for the Barnwell site. The Board states that no notice was given by Chem-Nuclear to the statutory parties and intervenors that these witnesses or potential experts would be identified at such a late stage in the proceeding.

The Board argues that in order for the parties to respond to the reports in Hearing Exhibit 11, the parties will need the opportunity to conduct discovery related to the witnesses, including, but not limited to, receipt of the curriculum vitae of the witnesses and the ability to depose the witnesses. Scheduling of depositions, according to the Board, will likely require more than two weeks, being that the witnesses are located in Atlanta, Georgia, Raleigh, North Carolina, and Baton Rouge, Louisiana. The Board opines that the introduction of this new testimony may require the statutory parties and intervenors to identify and to employ expert witnesses to review and analyze the witnesses' reports. Additionally, the Board provides that the information gathered through discovery could alter the responses of the Board and other parties to the Staff's late-filed exhibit. In the Board's opinion, the discovery process, identification of experts, and responses to the late-filed exhibits cannot be completed within the deadline established by the Public Service Commission.

**CHEM-NUCLEAR’S RESPONSE TO THE MOTION OF THE SOUTH
CAROLINA BUDGET AND CONTROL BOARD**

Chem-Nuclear responds that it is not in opposition for an extension of time to file responses to the Hearing Exhibits at issue. However, Chem-Nuclear’s opinion is that a sixty (60) day extension is excessive in light of the fact that the Commission required Chem-Nuclear and the Staff to prepare and submit the late-filed Hearing Exhibits in only thirty-three (33) days. Chem-Nuclear argues in its Response to the Board’s Motion that it is logical and reasonable to consider that the preparation of the Hearing Exhibits, especially, Hearing Exhibit No. 11 at which the Board directs its Motion, would have required more time and effort than any reasonable response that the Board may contemplate. In its Response, Chem-Nuclear states that it believes the original time which the Commission granted is sufficient to prepare and file responses to the Hearing Exhibits. However, Chem-Nuclear provides it would consent to a thirty (30) day extension of time, and that a thirty (30) day extension more closely parallels the period that the Commission allowed Chem-Nuclear and the Staff to prepare the late-filed Hearing Exhibits. Specifically, according to Chem-Nuclear, the period to which they would consent would be from February 11, 2002, to March 13, 2002. Chem-Nuclear’s belief is that thirty (30) days is sufficient to enable all parties to review and prepare responses to the late-filed Hearing Exhibits.

CONCLUSION

We have reviewed the Board’s Motion and Chem-Nuclear’s Response. Additionally, we have considered the Atlantic Compact Commission’s letter of support of the Board’s Motion for an extension which was submitted to the Commission February

20, 2002. These matters were addressed by the Commission at its regularly scheduled meeting on February 20, 2002. After due consideration, the Commission agrees with and grants the Board's Motion. Due to the voluminous late-filed Hearing Exhibit 11 and the previously-unidentified witnesses or potential experts, we conclude that the additional time requested by the Board is necessary and in the best interest of all parties and this proceeding. Accordingly, we hereby grant the Board's Motion as filed. The Board and all statutory parties and intervenors shall have until **April 26, 2002**, to respond to the Late-Filed Exhibits submitted by Chem-Nuclear and the Staff in this Docket.

This Order shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director
(SEAL)